

SENATE BILL No. 26

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34.

Synopsis: Children in need of services. Provides that a child is a child in need of services if the child lives in the same household as an adult who: (1) committed certain offenses; or (2) has been charged with certain offenses and is awaiting trial. Makes conforming amendments.

Effective: July 1, 2016.

Steele

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 26

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-34-1-3, AS AMENDED BY P.L.168-2014,
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3. (a) A child is a child in need of services if,
4 before the child becomes eighteen (18) years of age:
5 (1) the child is the victim of a ~~sex~~ **an** offense under:
6 (A) IC 35-42-4-1;
7 (B) IC 35-42-4-2 (before its repeal);
8 (C) IC 35-42-4-3;
9 (D) IC 35-42-4-4;
10 (E) IC 35-42-4-7;
11 (F) IC 35-42-4-9;
12 (G) IC 35-45-4-1;
13 (H) IC 35-45-4-2;
14 (I) IC 35-46-1-3; or
15 (J) the law of another jurisdiction, including a military court,
16 that is substantially equivalent to any of the offenses listed in
17 clauses (A) through (I); and



(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 (before its repeal);

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who:

(A) committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2; or

(B) has been charged with a sex offense listed in subdivision (1) and is awaiting trial;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child lives in the same household as an adult who:

(1) committed an offense described in subsection (a)(1) against



1 **a child, and the offense resulted in a conviction or a judgment**
 2 **under IC 31-34-11-2; or**
 3 **(2) has been charged with an offense described in subsection**
 4 **(a)(1) against a child and is awaiting trial.**

5 SECTION 2. IC 31-34-12-4.5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) There is a
 7 rebuttable presumption that a child is a child in need of services if the
 8 state establishes that

9 (1) another child in the same household is the victim of a sex
 10 offense described in IC 31-34-1-3; and

11 (2) the sex offense described in IC 31-34-1-3:

12 (A) was committed by an adult who lives in the household
 13 with the child; and

14 (B) resulted in a conviction of the adult or a judgment under
 15 IC 31-34-11-2 as it relates to the child against whom the sex
 16 offense was committed.

17 the child lives in the same household as an adult who:

18 (1) committed an offense described in IC 31-34-1-3 against a
 19 child, and the offense resulted in a conviction or a judgment
 20 under IC 31-34-11-2; or

21 (2) has been charged with an offense described in IC 31-34-1-3
 22 against a child and is awaiting trial.

23 (b) The following may not be used as grounds to rebut the
 24 presumption under subsection (a):

25 (1) The child who is the victim of the sex offense described in
 26 IC 31-34-1-3 is not genetically related to the adult who committed
 27 the act, but the child presumed to be the child in need of services
 28 under this section is genetically related to the adult who
 29 committed the act.

30 (2) The child who is the victim of the sex offense described in
 31 IC 31-34-1-3 differs in age from the child presumed to be the
 32 child in need of services under this section.

33 (c) This section does not affect the ability to take a child into
 34 custody or emergency custody under IC 31-34-2 if the act of taking the
 35 child into custody or emergency custody is not based upon a
 36 presumption established under this section. However, if the
 37 presumption established under this section is the sole basis for taking
 38 a child into custody or emergency custody under IC 31-34-2, the court
 39 first must find cause to take the child into custody or emergency
 40 custody following a hearing in which the parent, guardian, or custodian
 41 of the child is accorded the rights described in IC 31-34-4-6(a)(2)
 42 through IC 31-34-4-6(a)(5).

